

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

NORTHEAST RESEARCH, LLC,

Plaintiff,

v.

DECISION AND ORDER
04-CV-645A

ONE SHIPWRECKED VESSEL,
her Tackle, Equipment, Appurtenances and
Cargo located within two nautical miles of a
circle point at coordinates 42 degrees 33 Minutes
North Latitude, and 79 degrees 36 Minutes West
Longitude,

in rem,
Defendant,

and

THE STATE OF NEW YORK,

Intervenor.

On May 24, 2006, plaintiff NorthEast Research, LLC ("NorthEast"), filed a motion for a temporary restraining order ("TRO") and preliminary injunction, to enjoin Captain Jim Herbert and any other person from diving upon the *in rem* defendant One Shipwrecked Vessel without express prior permission from NorthEast and the State of New York.

NorthEast has not met (in fact, has not attempted to meet) the requirements of Rule 65(b)(1) and (2) of the Federal Rules of Civil Procedure in order to have its TRO motion heard *ex parte*. See also Local Rule 65(a)(1) of the Local Rules of

Civil Procedure for the United States District Court for the Western District of New York (“Local Rules”). Nor has NorthEast followed the correct procedure for having its TRO motion heard on notice. See Local Rule 65(a)(2). In addition, NorthEast has not followed the proper procedure for seeking a preliminary injunction in this Court. See Local Rule 65(b).

Accordingly, NorthEast’s motion for a TRO and preliminary injunction is denied.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: May 25, 2006